

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1518 - SB 1857

February 19, 2014

SUMMARY OF BILL: Adds new offenses for which a child under the age of 16 may be tried as an adult.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$154,300/Incarceration*

Assumptions:

- Under current law, any child between 16 and 18 years of age can be tried as an adult for any criminal offense if a juvenile court waives its jurisdiction under Tennessee Code Annotated § 37-1-134. Children under 16 years of age, however, can only be tried as an adult for certain offenses—first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, and especially aggravated kidnapping—or attempts of those offenses, but only if the victim was less than eight years of age.
- The proposed legislation adds four new offenses and attempts of such offenses to Tenn. Code Ann. § 37-1-134—aggravated sexual battery, aggravated child abuse, aggravated child neglect, and aggravated child endangerment—for which a child under 16 years of age can be tried as an adult.
- It is assumed that the proposed legislation will not impact admissions for aggravated child endangerment because there have been no cases referred to juvenile court in the past five years.
- Under Tennessee Code Annotated § 37-1-134, any juvenile under the age of 16 that is convicted of a felony must be housed in a juvenile correctional facility until the age of 16, at which time the court may order the juvenile transferred to an adult facility. Under Tennessee Code Annotated § 37-1-134, any juvenile 16 years of age or older that is convicted of a felony is to be housed in a juvenile correctional facility unless the court orders admission into an adult facility. It is assumed for purposes of this fiscal note that all juveniles will be housed in a juvenile correctional facility until they are 18 years old, as they currently would be as a delinquent.
- It is assumed that every juvenile convicted as an adult under the proposed legislation will be 14 years old at the time of conviction.
- In 1999, the Tennessee Bureau of Investigation's Crime Statistics Unit (CSU) analyzed juvenile transfers in Tennessee. CSU analyzed five counties—Davidson, Shelby,

Montgomery, Rutherford, and Washington—that had the most transfers in Tennessee. The analysis found that these counties averaged a transfer rate of 6.7 percent. It is assumed that the statewide transfer rate is four percent.

- According to statistics from the Administrative Office of the Courts (AOC), there has been an average of 12.6 cases of aggravated child abuse/neglect referred to juvenile court each year for the past five years.
- It is assumed that .5 cases per year ($12.6 \text{ cases} \times .04 = .5$) will be transferred to criminal court.
- Aggravated child abuse/neglect is punished as a Class B felony if the victim is over eight years old and as a Class A felony if the child is under eight years old. It is assumed that one half of the cases ($.5 \times .5 = .25$) are Class B felonies and one half ($.5 \times .5 = .25$) are Class A felonies.
- The proposed legislation will result in one Class A felony admission every four years and one Class B felony admission every four years.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- A recidivism discount generally applies, but due to the low number of admissions for aggravated child abuse/neglect added by this legislation, the recidivism discount does not impact the incarceration cost for this portion of the proposed legislation.
- The average time served for a Class A felony is 15.09 years. However, a juvenile transferred to criminal court and tried and convicted as an adult will serve the first four years of the sentence in a juvenile correctional facility, and will only serve 11.09 years (4,050.62 days) in custody of the Department of Correction (DOC).
- According to the DOC, the average operating cost per offender per day for calendar year 2014 is \$66.29.
- The annualized increase in state expenditures is based on one offender every four years serving 11.09 years (4,050.62 days) for a total of \$67,128.90 [$(4,050.62 \text{ days} \times \$66.29) / 4$].
- The average time served for a Class B felony is 5.6 years (2,045.40 days). However, a juvenile transferred to criminal court and tried and convicted as an adult will serve the first four years of the sentence in a juvenile correctional facility, and will only serve 1.6 years (584.4 days) in DOC custody.
- The annualized increase in state expenditures is based on one offender every four years serving 1.6 years (584.4 days) for a total of \$9,684.97 [$(584.4 \text{ days} \times \$66.29) / 4$].
- According to statistics from the AOC, there has been an average of 89.2 cases of aggravated sexual battery referred to juvenile court each year for the past five years.
- It is assumed that 4 cases per year ($89.2 \text{ cases} \times .04 = 3.57$) will be transferred to criminal court.
- Aggravated sexual battery is punished as a Class B felony.
- The proposed legislation will result in four Class B felony admissions every year.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the

fiscal impact of this legislation.

- According to the DOC, 49.11 percent of offenders will re-offend within three years of their release. A recidivism discount of 49.11 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (4 offenders x .4911 = 2 offenders).
- The average time served for a Class B felony is 5.6 years (2,045.40 days). However, a juvenile transferred to criminal court and tried and convicted as an adult will serve the first four years of the sentence in a juvenile correctional facility, and will only serve 1.6 years (584.4 days) in DOC custody.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders [4 offenders – 2 (recidivism discount)] serving 1.6 years (584.4 days) for a total of \$38,739.88 (\$66.29 x 584.4 days). The cost for two offenders is \$77,479.76 (\$38,739.88 x 2).
- The total increase in state expenditures is \$154,293.63 (\$67,128.90 + \$9,684.97 + \$77,479.76).
- The proposed legislation will only create four new felonies per year. It is assumed that the minimal impact to the caseloads of the District Attorneys General Conference, the District Public Defenders Conference, and the courts can be accommodated within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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